



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF EDUCATION  
333 MARKET STREET  
HARRISBURG, PENNSYLVANIA 17126-0333

SECRETARY OF EDUCATION

717-767-8820

January 28, 2013

Mr. Ryan Davis  
Urban Cyber Charter School  
600 North Hartley Street  
Suite 170  
York, PA 17404

SENT VIA CERTIFIED MAIL AND E-MAIL

Dear Mr. Davis:

Thank you for your interest in opening a cyber charter school in Pennsylvania. After reviewing the Urban Cyber Charter School application, it is the decision of the Pennsylvania Department of Education to deny your application. Please review the pages that follow for more information.

If you have any questions, please contact Michael Wilson at (717) 214-5708 or [mrwilson@pa.gov](mailto:mrwilson@pa.gov).

Sincerely,

A handwritten signature in black ink that reads "Ronald J. Tomalis".  
Ronald J. Tomalis

Enclosure

## **Pennsylvania Department of Education's Decision**

### **Urban Cyber Charter School 2012 Cyber Charter School Application**

#### **Background**

Pursuant to the Charter School Law (CSL), 24 P.S. §§ 17-1701-A – 17-1751-A, the Pennsylvania Department of Education (the “Department”) has the authority and responsibility to receive, review and act on applications for the establishment of a cyber charter school. The CSL requires that a cyber charter school applicant submit its application to the Department by October 1 of the school year preceding the school year in which the cyber charter school proposes to commence operation. After submission of an application, the Department is required to hold at least one public hearing and grant or deny the application within 120 days of its receipt.

Urban Cyber Charter School (Urban) submitted a timely application to operate as a cyber charter school. The Department provided 30 days notice of a public hearing held on November 26, 2012.

#### **Decision**

Based on a thorough review of the written application as well as questions and responses recorded at the November 26, 2012 public hearing, the Department denies Urban’s application. Deficiencies were found in the following areas:

- Application Requirements
- Governance
- Use of Physical School Facilities
- Family Educational Rights and Privacy
- Curriculum
- English as a Second Language
- Professional Development and Teacher Induction
- Finance
- Special Education
- Technology
- Planning and School Improvement

*The applicant did not comply with applicable requirements.*

*(a) Urban failed to demonstrate evidence of insurability.*

The CSL requires that a cyber charter school applicant submit a description of how the cyber charter school will provide adequate liability and other appropriate insurance. Urban states in its application that it will provide certain types of insurance and that it will obtain the insurance from a particular insurance company. However, Urban failed to submit any evidence of insurability. Without this information the Department cannot determine that Urban can obtain

appropriate and adequate insurance or that it has a reasonable estimate of the costs of such insurance.

*(b) Conflicting enrollment projections are present within the application.*

On the Fact Sheet, and in the Finance and Facility portion of its application, Urban projects an enrollment of 250 students in the first year with an increase of 250 students each year so that the fifth year projected total is 1250 students. However, in the Needs Assessment portion of the application, Urban projects a first year enrollment of 500 students with an increase of 500 students each year so that the fifth year projected total is 2,500 students. Thus, it is not clear what Urban is projecting as its enrollment each year and such discrepancies are not acceptable.

*(c) Urban cannot offer GED preparation courses.*

In the presentation by Urban and e2020 at the public hearing, GED preparation courses were listed as part of the services to be provided by e2020. By clarification at the hearing, it was stated that e2020 has GED preparation courses but that Urban would not use those courses for its enrolled students. However, Urban did state that it believed the Urban Board would want to purchase some licenses for parents and families of Urban's students to be able to access e2020's GED preparation courses. Using cyber charter school funds to purchase GED preparation courses would not be using cyber charter school funds for charter school purposes. Urban cannot use cyber charter school funds or its equipment to provide GED preparation courses to anyone.

*The applicant did not submit sufficient evidence of properly established procedures for governance of the school.*

*(a) Articles of Incorporation.*

The CSL authorizes the Department to develop forms necessary to carry out the provisions of the CSL applicable to cyber charter schools. On an annual basis, the Department posts a Cyber Charter School Application document on its publically accessible website. The Cyber Charter School Application requires that an applicant provide copies of the school's Articles of Incorporation (Articles), by-laws and contracts. In addition, pursuant to the CSL, a cyber charter school must be organized as a public, nonprofit corporation.

Although Urban provided a copy of Articles, the Articles do not contain the stamp of the Pennsylvania Department of State; thus, there is no evidence that the Articles were filed with the Department of State. Because the CSL only permits the granting of a charter to a public, nonprofit public corporation, the Department must have a copy of the Articles that have been fully executed and filed with the Department of State so that the Department can verify that Urban is a public, nonprofit corporation. Urban failed to evidence that the Articles in the application were filed with the Department of State.

In addition, the Articles state that Urban "is organized and shall be operated exclusively for charitable, literary, scientific, religious or educational purposes . . . ." However, pursuant to the CSL, a charter cannot be granted to a sectarian school, institution or other entity. Therefore, the

language in Urban's Articles stating that it shall be operated for "religious" purposes is not in compliance with the CSL.

Also pursuant to the CSL, upon dissolution of a cyber charter school, any remaining assets of the cyber charter school must be given to the Intermediate Unit in which the cyber charter school's administrative office is located for distribution to the school districts that had students enrolled in the cyber charter school. Language in Urban's Articles regarding the distribution of assets in the event of Urban's dissolution does not comply with the requirements of the CSL.

***(b) Urban did not provide a finalized Management Agreement; however, some provisions in the draft Management Agreement contain deficiencies.***

The Commonwealth Court has stated that a charter school applicant must include in its application a finalized management agreement so that the charter authorizer can determine whether the Board of Trustees of the charter school will have ultimate control of the charter school. *See, School District of the City of York v. Lincoln-Edison Charter School*, 772 A.2d 1045 (Pa. Cmwlth. 2001). With its application, Urban submitted a draft, unsigned Management Agreement between Three Cord, Inc. (Three Cord) and Urban (Management Agreement). Also, in multiple places in its application Urban states that it would contract with Three Cord to be Urban's management company. Thus, Urban's failure to provide a finalized management agreement is not in compliance with relevant law and prevents the Department from determining whether Urban's Board of Trustees would maintain ultimate control of the cyber charter school.

Even if the draft Management Agreement had been a fully executed, finalized agreement, the Department notes numerous deficiencies with some provisions of the agreement. Section 5.1 states that there will be an admission preference to residents of Pennsylvania. This is concerning because only residents of Pennsylvania may be enrolled in a Pennsylvania cyber charter school. Thus, this evidences a lack of understanding of the CSL and/or that this proposed agreement is a "boilerplate" agreement of Three Cord that has not been created through arms-length negotiations and is not specific to Urban.

Pursuant to Section 6.1 of the draft Management Agreement, Three Cord is to provide expertise, advice and other assistance to help Urban locate, purchase or lease facilities for the operation of Urban. Section 16.12 evidences that Three Cord and Urban have the same street address, including the same suite number. During the hearing, an Urban representative stated that the lease was submitted with the application and that the lease was directly with the owner of the building. However, a lease was not provided with the application.

In addition, it is stated in the application that "UCCS will occupy the facility pursuant to a written lease with 3Cord Inc. who sublets the office space. 3Cord Inc. has entered into a lease with Monarch Mills, LLC for this administrative space. The lease allows for subletting which will be the arrangement for administrative space to be utilized by UCCS." Thus, leasing information provided in the application is contradictory to information provided at the hearing. The application also provides that Three Cord may use or permit others to use Urban's facilities during after-school, evenings and weekends and that any income from such activities would be used to offset operating costs. It is not clear why Urban is subletting the facility from Three

Cord rather than leasing the facility directly from the owner of the facility. In addition, because Three Cord and Urban have the same address, including the same suite number, it appears that Three Cord and Urban would be utilizing the same space in the facility. There is nothing in the application that provides the sublease terms between Urban and Three Cord. Therefore, the Department has serious concerns about this lease/sublease arrangement, including how and why Urban and Three Cord would be using the same space and whether Urban would be paying for the entire space or would be only paying for the portion of the facility that it would be using for its school.

Section 6.5 of the draft Management Agreement provides that Three Cord will make arrangements for the provision of transportation and food services if food services are added in the future. Since Urban is to be a cyber charter school, it is not clear why food or transportation services for students would be needed.

Section 7.1 of the draft Management Agreement provides that all personnel will be employees of Urban except for any specific employees mutually agreed upon by Urban and Three Cord. This does not identify which, if any, employees would not be Urban employees. The Commonwealth Court has held that the CSL does not prohibit a for-profit entity from operating a charter school so long as certain criteria are met, which includes teachers being employees of the charter school itself. *See, West Chester Area School District v. Collegium Charter School*, 760 A.2d 452, 468 (Pa. Cmwlth. 2000), *affirmed*, 812 A.2d 1172 (Pa. 2002). Therefore, Urban and Three Cord could not agree that teachers would be employees of an entity other than Urban.

Also in the draft Management Agreement, Section 9.4 provides that if there is a surplus of funds at the end of a school year, 50 percent of the surplus would be paid to Three Cord and 50 percent would be paid to Urban. Although there are performance indicators that allegedly are to be met in order for Three Cord to receive any surplus funds, it was stated at the hearing that 50 percent of surplus funds would be paid to Three Cord each year regardless of whether Urban had a negative or positive fund balance. If, for example, the school generated a positive surplus in one year while at the same time maintaining a negative or insufficient fund balance, the school would still pay 50 percent of the surplus to Three Cord. This limits the school's ability to correct any future fiscal gaps. To return a negative fund balance to positive balance and/or to accumulate sufficient contingency funds, the school would need to generate surpluses. Because half of each annual surplus would be paid directly to Three Cord, the school would need to generate surpluses that are twice as large as those needed without the supplemental fee. The Department finds this to be unacceptable because a cyber charter school is a non-profit corporation and any surplus funds must be reinvested in the school for educational purposes. Three Cord is being paid a minimum management fee of 15 percent of Urban's gross revenues to manage the school and any surplus at the end of a school year cannot be paid to Three Cord.

In addition, although the draft Management Agreement provides that Three Cord will provide Urban with a curriculum that enables Urban to implement its educational program, Urban has stated that it is using Education 2020, Inc. (e2020) curriculum for core academic courses and career elective courses. In addition, Urban is to provide Performing Arts and Sports Science courses. There was no mention at the hearing that Three Cord would provide any curriculum to Urban, which again evidences that the Management Agreement appears to be a "boilerplate"

agreement by Three Cord and is not specific to Urban. In addition, Urban is obtaining curriculum from e2020, using its own curriculum for Performing Arts and Sports Science courses, and must use teachers who are employees of Urban. Therefore, even if the Department believed payment of surplus funds to a management company would be permissible, since Three Cord is not providing any curriculum to Urban and cannot provide teachers, the Department does not find any basis upon which Three Cord should receive 50 percent of any surplus funds even if payment of surplus funds were to be based on performance standards.

*(c) Employment of teachers.*

In the application, Urban states that e2020 teachers will deliver direct instruction through recorded video in each lesson. At the hearing, e2020 stated that the recorded lessons are by teachers who are not PA certified but that PA certified teachers are assigned to every student to perform tasks such as grading the student's work, interacting with students, and working one-on-one with students. In the application, and as affirmed at the hearing, the e2020 teachers would be evaluated by e2020 according to e2020's rubric of teacher and staff performance. In addition, e2020 would have the authority to hire, supervise and terminate their teachers; Urban would not have authority over the e2020 teachers.

Thus, although Urban and e2020 provided some information at the hearing about the teachers to be used at Urban, Urban did not provide a copy of any written agreement between Urban and e2020. Without a written agreement to review, the Department cannot make proper determinations about whether such an agreement would be in compliance with applicable law. As stated above, teachers must be employees of the cyber charter school.

*The applicant failed to provide sufficient information to establish the proper use of physical school facilities.*

Schools that operate under a charter are divided into three general types – charter schools, regional charter schools, and cyber charter schools. The first two, charter schools and regional charter schools, are authorized to operate through charters granted by a local board of school directors. See 24 P.S. §§ 17-1717-A(c) and 17-1718-A(b) and (c). These schools are commonly referred to as “brick-and-mortar” charter schools and focus on teacher-centered instruction, including teacher-led discussion and teacher knowledge imparted to students, through face-to-face interaction at the schools' physical facilities. By contrast, cyber charter schools are authorized by the Department, see 24 P.S. § 17-1741-A, and offer a structured education program in which content and instruction are delivered over the Internet without a school-established requirement that the student attend a supervised physical facility designated by the school, except on a very limited basis, such as for standardized tests.

By establishing different provisions for the authorization of the individual types of charters by separate agencies, the General Assembly acknowledged that significant differences exist between these types of schools and signaled its intent that cyber charter schools are materially different from charter schools and regional charter schools.

As defined by the CSL, a cyber charter school is “an independent public school established and operated under a charter from the Department of Education and in which the school uses technology in order to provide a significant portion of its curriculum and to deliver a significant portion of instruction to its students through the Internet or other electronic means.” See 24 P.S. § 17-1703-A. The CSL’s definition of a cyber charter school is not the exclusive legislative guidance for the requirements applicable to cyber charter schools, however. See 1 Pa.C.S. § 1921(a) (statute shall be construed to give effect to all its provisions). Additional provisions of the CSL, in addition to the fact that subarticle (c) specifically addressed cyber charter schools separately from other schools that operate under a charter, lead to the conclusion that a cyber charter school must exist exclusively, or at least in all material respects, in a virtual environment, as further explained below, and use physical facilities only as a supplement to virtual instruction.

For example, 24 P.S. § 17-1723-A(c), permits charter schools and regional charter schools to “enroll nonresident students on a space-available basis.” This and other similar features are irrelevant to cyber charter schools that provide their curriculum in a virtual environment. Likewise, 24 P.S. § 17-1726-A, which relates to transportation to charter schools and regional charter schools, does not apply to cyber charter schools. See 24 P.S. § 17-1749-A(a)(1). The General Assembly did not find it necessary to ensure enrollment preference for resident students or provide provisions for transportation of cyber charter school students, because it intended that a cyber charter school deliver instruction in a virtual environment, and not at a school’s physical facility that would be located within the boundaries of a particular school district or require that students be transported to the physical facility for attendance.

Specific cyber charter school application requirements — which supplement those that are otherwise applicable to all applicants that seek to operate schools under a charter — further evidence that the General Assembly recognized the differences between brick-and-mortar charter schools and cyber charters schools. For example, in addition to the requirement in 24 P.S. § 17-1719-A(12) that a charter application include information on the length of the school day, a cyber charter application must include an “explanation of the amount of on-line time required for elementary and secondary students” and a “description of how the cyber charter school will define and monitor a student’s school day, including the delineation of on-line and off-line time.” 24 P.S. § 17-1747-A(3) and (7). The collection of this additional information in the application is necessary because cyber charter school students “attend” school in a virtual (on-line) environment and not at a physical school facility. Also, in addition to providing a description and address of the physical facility in which the school will be located, 24 P.S. § 17-1719-A(11), a cyber charter school application must include the “addresses of all facilities and offices of the cyber charter school. . . .” 24 P.S. § 17-1747-A(16). Here, the General Assembly recognized that a cyber charter school would operate from multiple locations for any in-person interaction with students to supplement virtual instruction, if at all, and required that applications provide a description of “all” facilities and offices as compared to “the physical facility.”

As an administrative agency, the Department must act within the scope of the authority delegated to it by the General Assembly. *Mack v. Civil Service Commission*, 817 A.2d 571, 574 (Pa. Cmwlth. 2003). Both local boards of school directors and the Department are independently granted authority to review and act upon applications for the establishment of public schools that operate under a charter, and to oversee and regulate the schools. Acting within the authority

granted to the Department by the General Assembly also requires that the Department not invade upon the separate authority granted to local boards of school directors by the General Assembly. Consequently, in considering applications for the establishment of cyber charter schools and in the general oversight and regulation of cyber charter schools, it is essential that the Department recognize the differences between these types of schools. As a practical matter, this means the Department is not authorized to permit the establishment or operation of a cyber charter school that provides face-to-face instruction in a physical facility and which should instead be authorized by local boards of school directors. The Department's public recognition of these distinctions assists charter applicants with identifying the appropriate charter authorizer for submission of an application for the establishment of a charter school, regional charter school or cyber charter school, and in determining the proper procedures for submission of an application to the authorizer.

Because of the limitations of the CSL described above, cyber charter schools must be able to function and provide all curriculum and instruction to all of its students without the need for students to attend any physical facility designated by the cyber charter school. A cyber charter school may only use a physical facility as an administrative office or as a resource center for the purpose of providing no more than supplemental services (e.g., tutoring, counseling, extra-curricular activities, standardized testing) to enrolled students. Any use of physical facilities by a cyber charter school for these supplemental services shall provide equitable access to such services for all students enrolled in the school. To ensure equitable access, a cyber charter school must have materially the same supplemental services available to all enrolled students wherever they live in the Commonwealth. If the physical facilities designated by the cyber charter school are not accessible to a student, the cyber charter school must be prepared to demonstrate that it can provide for suitable electronic communication with the student or provide for a staff member or contracted consultant to travel to a location convenient to the student to provide such services. A cyber charter school may only require students to attend a physical facility designated by the cyber charter school: to take standardized tests, including PSSA tests; when the cyber charter school's written policies require supervised completion of course work or tests due to concerns relating to completion of earlier assignments or tests by a student (e.g., reasonable suspicion of others completing the student's work or tests); and, for individual or planned student/parent/guardian meetings with teachers or other school staff if there is reasonable necessity for such meetings to be conducted at a physical facility and such meetings cannot be conducted through electronic means. Finally, to ensure that the operation of a cyber charter school will not have a significant impact on one or a defined group of school districts, which would legally require authorization of the school as a charter school or regional charter school, the cyber charter applicant or operating cyber charter school must demonstrate the ability to enroll students from across the state and provide all services to those students in a materially consistent way, regardless of where they reside.

At the public hearing, Urban representatives stated that every child would not need to attend a physical school facility, which it referred to as cyber cafes, but that cyber cafes were required for Urban's model to be completely successful. Urban stated that initially cyber cafes would be located at YWCAs in York, Lancaster and Harrisburg. Also, the application notes a partnership with Universal Companies Family of Schools in Philadelphia to create "hubs" for optional tutoring and networking services. Urban does not have contracts with other YWCAs at this time



but stated that it understands the need to branch out in order to make sure every child has equitable access.

Based on information provided in Urban's application and at the public hearing, Urban has failed to show that its proposed use of physical facilities would be in compliance with the proper use of physical facilities by a cyber charter school as identified above.

***The applicant failed to ensure that some of its proposed policies would be in compliance with the Family Educational Rights and Privacy Act (FERPA).***

Urban stated in its application that it would give daily attendance lists to school districts if such information was requested. However, such records constitute education records and FERPA protects the release of education records unless a parent provides a signed consent allowing release of the record. Although there are exceptions to the parental consent provision, a student's resident school district is not automatically authorized to receive a student's education records when the student is enrolled in the charter school. Thus, Urban cannot automatically provide education records of its students to the students' resident school districts, which could be in violation of FERPA. Urban failed to ensure that its policies and procedures regarding the release of student education records will be in compliance with FERPA and its implementing.

***The applicant failed to provide proof of curriculum and assessment alignment to show that requirements of 22 Pa. Code Chapter 4.***

In review of the curriculum, Urban showed little evidence of a curriculum framework in the application and only provided course overview and syllabus. At the public hearing, representatives from Urban stated that e2020 would provide maps delineating the curriculum. However, the application did not include detailed curriculum maps delineating courses to be offered and how they meet the requirements of 22 Pa. Code Chapter 4 (relating to academic Standards and Assessment).

Urban did not articulate how planned instruction aligned with academic standards would be provided at all grade levels for all the Standards Areas outlined in Chapter 4 in the areas of assessment and resources. Urban plans to offer instruction for Grades 6-12 but did not provide sample lessons or assessments aligned to the course work being offered. Lastly, Urban could not verify that any of the courses were aligned to PA Academic Standards or the PA Common Core Standards. Urban stated that live activities would be available to students at YMCAs but was unsure how to handle the equity issues for all students across the state. Urban focused on inner city students that were in close proximity of the school. Urban planned to use the e2020 system in areas of Advanced Placement, fine arts and vocational education but could not provide curriculum or further detail at the time of the application.

***The applicant failed to provide sufficient evidence of an English as a second language (ESL) program.***

Cyber charter schools are subject to Chapter 4 of the State Board of Education regulations. 22 Pa. Code Chapter 4. Section 4.26 of these regulations, requires that a cyber charter school

“provide a program for each student whose dominant language is not English for the purpose of facilitating the student’s achievement of English proficiency and the academic standards under § 4.12 (relating to academic standards). Programs under this section shall include appropriate bilingual-bicultural or English as a second language (ESL) instruction.” The Basic Education Circular, *Educating Students with Limited English Proficiency (LEP) and English Language Learners (ELL)*, pertaining to 22 Pa. Code § 4.26, states that each local education agency (LEA) must have a written Language Instructional Program that addresses key components, including a process for identification, placement, exit, and post-exit monitoring; instructional model used; curriculum aligned to PA standards; and administration of annual proficiency and academic assessments.

Urban’s application failed to provide sufficient evidence of an ESL Program. Although Urban stated that “Spanish may be the primary language spoken,” the application demonstrated limited awareness of Pennsylvania requirements for the education of English language learners. To begin, Urban provided an insufficient explanation of a process for identification and placement of English language learners and of a plan to implement Pennsylvania’s required exit criteria and to monitor the progress of former English language learners for two years.

Moreover, the application did not specify planned instruction for English language learners. It provided no evidence of a research-based program model for English language acquisition. It did not account for the number of courses or online time required for ESL instruction. It failed to provide an ESL curriculum aligned to PA English Language Proficiency Standards and academic standards.

Although Urban described the use of translation and e-readers, it provided insufficient evidence of how academic content classes would incorporate the PA English Language Proficiency Standards and provide meaningful, comprehensible access to instruction, standards, and assessments.

***The applicant failed to provide evidence of sufficiently developed professional education and teacher induction plans.***

A cyber charter school applicant must provide a detailed Professional Education Plan that designates, or provides for the designation of, a professional education planning committee consisting of parents, administration representation, teachers and educational specialists designated by their peers, community representation and local business representation. At the public hearing, it was stated by Urban’s representative that there would be representation from the administration, educational specialists, parents and community. However, there was no mention of representation from teachers and local businesses. Urban failed to explain how it would assess the professional education needs of the staff or what professional education activities will be provided in the interim startup phase of operation and/or the first three years of the school’s operation. In addition, although Urban’s representatives stated that the professional education program would be evaluated every two years, it should be evaluated annually.

A cyber charter school applicant must develop a Teacher Induction Plan that includes a teacher induction committee (Induction Council) consisting of administration representation, as well as

teachers or educational specialists or both designated by their peers. Urban representatives stated at the hearing that they would use the induction program of the Intermediate Unit (IU). However, the IU plan must be reviewed by PDE to ascertain if it actually aligns with the school's model. Urban failed to show that the plan will provide goals and competencies and an assessment process. Urban failed to explain how mentors will be designated and matched with the new teachers in a sustainable mentor-inductee relationship or that the plan includes review of the Code of Professional Practice and Conduct, as stated in 22 Pa. Code 235, as one of many activities. The plan must provide the method of teacher evaluation. Urban representatives explained at the hearing that they have two sets of teachers. Not only is this confusing, Urban failed to provide further explanation of this in connection with the area of teacher evaluation. In addition, Urban failed to explain monitoring and evaluation within the induction program.

***The applicant failed to demonstrate the necessary financial support and planning because financial documentation is limited or conflicting.***

***(a) The applicant failed to demonstrate compliance with requirements for reimbursement for internet and related services.***

The Charter School Law requires that a cyber charter school provide or reimburse for all technology and services necessary for the on-line delivery of curriculum and instruction. 24 P.S. § 17-1743-A(e)(3). The submitted budget only allocates \$5 per month per student for the reimbursement of internet costs. At the public hearing, an Urban representative stated that this amount should be corrected to \$50 per month. Later in the hearing, Urban stated that if it needed to provide satellite services to certain students, Urban would assume the costs of doing so. However, Urban's policy is not clear for addressing situations where providing a broadband connection requires costs beyond the typical hard-wired connection (such as mobile air cards, satellite connections, etc.), and such solutions may incur costs beyond \$50 per month. Thus, it is not completely clear what services Urban would pay or reimburse for required Internet services for enrolled students. Urban does not include any information to ensure that the full cost of Internet reimbursement would be provided even if costs exceed \$50 per month. Thus, Urban failed to provide sufficient information to ensure compliance with the CSL's requirements concerning internet reimbursement.

In addition, at \$50 per student per month, budgeted Internet reimbursement costs would increase from \$15,000 to \$150,000 – a \$135,000 increase in the first year. The increase that would result from revising the assumed amount reimbursed from \$5 to \$50 per month would grow to more than \$750,000 by 2017. In each year, this increase exceeds what the applicant shows for an operating surplus. Before any additional corrections, the change would result in a deficit in each year.

	2013	2014	2015	2016	2017
Students	250	500	750	1,000	1,250
Cost per student per month (3% increase/yr.)	\$50	\$52	\$53	\$55	\$56
Total Cost	\$150,000	\$309,000	\$477,405	\$655,636	\$844,132
Budgeted Cost (as submitted)	\$15,000	\$30,900	\$47,741	\$65,508	\$84,357
Difference (increase over budget)	\$135,000	\$278,100	\$429,665	\$590,128	\$759,775

- (b) *The applicant failed to provide sufficient and accurate information regarding benefits.*

The budget appears to allocate only \$3,684 for employee medical, dental, and life insurance. The notes for this budget line state an assumed \$1,054 per month for family coverage, and the budget appears to include six full-time employees. The budget must be corrected to include the full estimated cost of these benefits or an explanation provided if the costs are included elsewhere in the budget.

- (c) *The applicant failed to provide transportation costs in the budget.*

The submitted budget does not include transportation or travel costs. During the hearing, an Urban representative stated that the school would provide “transportation as dictated by an IEP or student with special needs.” The applicant should be explicit regarding the planned provision of transportation and the assumed associated cost.

- (d) *The applicant’s per-pupil revenue assumptions are questionable.*

Per-pupil revenue assumptions were developed based solely on per-pupil rates in school districts in the York area. Given that the cyber charter school would be available to students from anywhere in the Commonwealth, these estimates should be re-examined.

- (e) *The applicant did not submit sufficient evidence of start-up funding.*

At the hearing, Urban was asked what plans it had for start-up funding. Urban stated that because of its relationship with Three Cord, it would have the capacity and ability to have a line of credit to ensure it had everything it needed to start operating prior to the receipt of revenue. However, there were no documents with the application evidencing that Urban had received any assurances from any lending institutions that it would qualify for a line of credit. In addition, according to the draft Management Agreement, any request by Urban for a loan from Three Cord would be approved or rejected at the sole discretion of Three Cord. Thus, there is no assurance that Three Cord would provide funds to Urban for start-up costs. Urban also stated that it did not expect that any advances made to Urban from Three Cord would be repaid within ninety (90) days. According to the draft Management Agreement, if a loan from Three Cord was not repaid

within ninety (90) days, interest would accrue at the local commercial prime interest rate plus 1 percent until the loan and interest was paid in full. Therefore, there is insufficient evidence that Urban will have access to start-up capital to fund operations prior to the receipt of revenue.

***The applicant failed to demonstrate that it was prepared to meet the needs of students with disabilities.***

- (a) ***The applicant failed to demonstrate that it has allocated sufficient special education teacher resources to meet the needs of students with disabilities.***

Urban uses a projected teacher-student ratio (1:50) which appears to take into consideration students who primarily require an itinerate level of instructional support. Urban explains that some instruction can be provided via small groups (resource room). Cyber charter schools are not required to provide a particular special education student-teacher caseload ratio; however, the projected staffing ratio offered by Urban does not make allowances for students who will require more intensive individualized one-on-one support, part-time special education services, or full-time instructional support. Students requiring these levels of support are already present in cyber charter school populations across the state, thus Urban can expect a similar enrollment pattern or a higher pattern since Urban projects its special needs population to reach 23 percent. Additionally, the projected ratio fails to take into consideration time for case management, Individualized Education Program (IEP) goal monitoring and progress reporting, attendance at IEP meetings, and the other numerous functions related to special education service provision and case management (unless someone else is to assume these functions).

- (b) ***The applicant failed to demonstrate that it has a continuum of placement options available to meet the needs of students with disabilities.***

Urban's application fails to address and meet the requirements of 34 CFR § 300.115(a) and (b) (1) and (2), requiring a continuum of placement options available to meet the needs of students with disabilities. There is little evidence in the application to demonstrate that the applicant has developed at least some local capacity to provide services to students other than those whose needs can be met in the general education classroom. Urban was required to demonstrate that its program has the local capacity to meet the needs of students who require more than inclusion in the general education classroom. However, as soon as a student requires a more intensive level of instructional support and resources, other than inclusion in the general education classroom or some pullout, Urban's answer seems to be to establish a contract with a private provider for services to that student.

- (c) ***The applicant failed to demonstrate that it has sufficient resources established across the state to meet the needs of students with disabilities including special education service provision, transition planning for post-secondary education, employment, independent living and transportation as a related service.***

As a statewide cyber charter school, Urban would be required to accept students who reside anywhere within Pennsylvania. Urban's application and presentation contains some discussion of resources who could serve as potential special education program and service providers to

Urban's special needs population. However, sufficient resources have not been established to verify that Urban has reached out to these vendors (at least a statewide sampling) to verify whether they are available and willing to provide services to Urban students, and that their pricing scheme fits into Urban's projected special education budget.

Additionally, the application does not address transition planning and the resources that Urban has established to address post-secondary education, employment and independent living, including, for example, how will student internships and job shadowing be implemented and monitored, how will college visits and career days be addressed statewide, and what resources have been dedicated to life skills and independent living transition objectives. The services must be in place when the school opens, and plans and resources to address the "who, what and how" are not sufficiently addressed in the application. The application also fails to identify a plan that Urban has in place to ensure that transportation vendors or other resources are established who can provide transportation as a related service to students with disabilities when required as a part of their IEP.

- (d) The applicant failed to demonstrate that it has reasonable knowledge of the requirements for providing special education programs and services.*

Urban failed to submit any policies or procedures in key required areas of special education which could demonstrate that it has a working knowledge about how special education operates and how it will implement these requirements within its program. Urban's application and presentation outlined some of how it intends to implement special education; however, without additional details it cannot be determined that Urban has a program and plan that meets both the federal and state requirements for the implementation of IDEIA. Key areas not addressed include but are not limited to: Child Find, Assistive Technology, the IEP Process, Parent and Teacher Training Opportunities related to special education topics, Least Restrictive Environment, Positive Behavior Support (including the use of restraints), Independent Education Evaluation at Public Expense, Confidentiality, Extended School Year, Dispute Resolution, Intensive Interagency, Graduation and Dropout Prevention, Suspension and Expulsions of Students with Disabilities, Disproportionate Representation of Minorities, Public School Enrollment, and Surrogate Parents.

*The applicant failed to provide sufficient information to demonstrate compliance with technological requirements applicable to and necessarily part of the operation of a cyber charter school.*

- (a) The applicant failed to provide an Acceptable Use Policy that addresses the terms and conditions for appropriate/safe network and equipment use.*

Urban failed to provide an Acceptable Use Policy and Internet Safety Policy. At the public hearing, Urban representatives indicated that appropriate actions will be taken to address Internet safety. This includes acknowledgment of the need to filter content, monitor student Internet activities, etc. However a formal Internet Safety Policy must be created that outlines specific

processes and procedures that will be in place.

Urban representatives indicated that education regarding appropriate online behavior that addresses interacting with others on social networking websites and in chat rooms, as well as cyber bullying awareness and response, would be provided during a student orientation. Specifics regarding content contained within this orientation were not provided. In addition it was unclear as to the online education experiences that would be provided beyond the orientation period.

***(b) The applicant failed to provide sufficient information about the technologies that will be used to provide instruction.***

Urban representatives indicated that a Cloud Computing / Virtual Desktop approach would be used to deploy a standard set of software on Thin Clients that are provided to each student. However, Urban did not provide sufficient details regarding the specific Cloud Computing / Virtual Desktop technologies that would be used. In addition, Urban did not provide specifications for the Thin Clients each student would be receiving.

Urban states in its application that broadband connection is being defined as greater than 128 kbps. The concern is that a minimum of 128 kbps would not be adequate to deliver the Virtual Desktop technologies, including all the bandwidth intensive applications (such as video) Urban plans to use. This fact was also stated by an Urban representative during the hearing. Therefore, Urban failed to provide appropriate information about the true bandwidth requirements needed for students to participate. In addition, Urban failed to address how it would provide appropriate services to those areas of the state only served by dial-up access.

***The applicant failed to demonstrate a necessary understanding of the Department's Comprehensive Planning web application and all of the associated school improvement planning tools and failed to articulate measures to meet No Child Left Behind (NCLB) and Adequate Yearly Progress (AYP) goals.***

Urban failed to demonstrate an in-depth understanding of the Department's Comprehensive Planning web application and all of the associated school improvement planning tools made available to all schools in the Commonwealth. Urban failed to demonstrate any understanding of the ongoing dialogue the Department has with the U.S. Department of Education relating to the Accountability Workbook, which is updated at least yearly and contains critical information affecting all Commonwealth public schools. Urban failed to provide a viable alternative to the Department's planning process which would ensure compliance with all federal and state, district and school level planning requirements.

The applicant failed to clearly identify who would be monitoring the administration of the Pennsylvania Statewide System of Assessment (PSSA) tests which are for accountability measures. The requirement is for each testing session to be monitored by a Pennsylvania certified teacher.


During the public hearing, the Department's representatives described the gains that must be made by students to meet No Child Left Behind (NCLB) thresholds. Since Urban's targeted

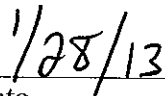
population is at-risk students, it is likely that many of these students will be one or more years below grade level which would require the school to ensure that students achieve multiple year gains in a single school year in order to meet these thresholds. Despite targeting specific student populations, Urban failed to demonstrate an understanding of specific achievement needs of students likely to enroll. Specific performance-based statistics were provided in the application; however, plans for improvement were not sufficiently elaborated upon nor were plans to manage such unprecedented success, if achieved, discussed. Urban was not able to sufficiently explain how it would be able to obtain multiple years of growth in its first year of operation. The applicant has not provided any research or documentation to demonstrate that the school would be able to meet AYP goals in the first few years, as stated in the application and in testimony, particularly with its targeted population being at-risk students.

### Conclusion

Based on the deficiencies identified above, individually, collectively, and in any combination, Urban's application is denied.

Urban may appeal this decision to the State Charter School Appeal Board (CAB) within 30 days of the date of mailing of the decision. 24 P.S. §§ 17-1745-A(f)(4) and 17-1746-A. In the alternative, Urban may exercise a one-time opportunity to revise and resubmit its application to the Department. 24 P.S. § 17-1745-A(g). To allow sufficient time for the Department to review the revised application, the revised application must be received by the Department at least 120 days prior to the originally proposed opening date for the cyber charter school. A revised application received after this time period will be returned to the applicant with instructions to submit a new application in accordance with 24 P.S. § 17-1745-A(d).

  
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Ronald J. Tomalis, Secretary of Education

  
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Date